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February 5, 2008

**USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: FEB 05 2008**

VIA FACSIMILE
(212) 805-6304

The Honorable Paul A. Crotty
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street, Room 735
New York, New York 10007

Re: State of New York, et al v. United States Department of Health and Human
Services, 07-CV-8621 (PAC)

Dear Judge Crotty:

This firm represents the Healthcare Association of New York State ("HANYs"), a statewide trade association that represents 550 not-for-profit and public hospitals, nursing homes, home care agencies and other health care organizations. We write this letter to request permission from the Court for HANYs to submit a memorandum of law as *amicus curiae* in the above-referenced action. All Plaintiffs have consented to this request. Defendant has also consented to this request, provided that any other *amici* with interests substantially identical to those of HANYs join in HANYs' brief rather than filing separate *amicus* briefs. At present, HANYs knows of no other organization with interests substantially identical to those of HANYs that seeks to participate as *amicus curiae* in this action.

This action involves a challenge to the refusal by the United States Department of Health and Human Services ("HHS") to approve, *inter alia*, New York State's proposed amendment to expand its State Children's Health Insurance Program ("SCHIP"). SCHIP is a joint federal-state program that provides health insurance coverage to uninsured children in families whose incomes are too low to afford private insurance, but not low enough to qualify for Medicaid. In 2007, New York State requested approval from HHS to expand its SCHIP to cover an expected 72,000 uninsured children who do not have, and whose families cannot afford, health insurance. HHS denied approval of the proposed amendment based on certain requirements that HHS enunciated in August 2007. Plaintiffs argue that these new requirements are invalid and that New York's proposed amendment must be approved.

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The outcome of this action will have a direct impact on HANYS' members. Of the more than 70,000 children who would be covered by the State's SCHIP amendment, thousands will receive hospital services this year. In general, as compared to the population at-large, uninsured children suffer from an unusually high level of chronic physical and psychiatric illnesses, and consume a disproportionate level of care. Since hospitals in the State generally receive no reimbursement for the care that they provide to uninsured children, the hospitals will be forced to divert their already overburdened resources. In fact, in light of the financial stress currently being experienced by the hospital industry in New York, HHS's position directly threatens the survival of certain hospitals, especially those operating in rural and inner-city areas where the uninsured crisis is most acute and where health care resources are in the shortest supply.

As *amicus curiae*, HANYS can offer the unique perspective of New York's hospitals on the impact of HHS's position and the legal merits underlying Plaintiffs' challenge of that position. All parties in this action are government entities: four states and a federal agency. In addition, the only other entity participating as *amicus curiae* is the Council of the City of New York, also a government body. HANYS will present the viewpoint of those health care providers most directly impacted by HHS's position.

For the foregoing reasons, HANYS respectfully requests permission to file a memorandum of law as *amicus curiae*.

Respectfully Submitted,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP



Philip Rosenberg

cc: John Schwartz
Counsel for Plaintiff State of New York

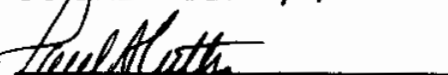
Karen Konieczny
Counsel for Plaintiff State of Illinois

Joel Tornari
Counsel for Plaintiff State of Maryland

William L. Williams
Catherine R. Hoover
Counsel for Plaintiff State of Washington

*Permission is granted to file
a brief amicus, limited to 22
pages*

SO ORDERED: 2/5/08


HON. PAUL A. CROTTY
UNITED STATES DISTRICT JUDGE

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Serrin Andrew Turner
Counsel for Defendant United States Department of Health and Human Services

Lauren G. Axelrod
Counsel for Amicus Curiae Council of the City of New York